

# HOUSE BILL No. 1690

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 31-17.

**Synopsis:** Grandparent visitation rights. Expands grandparent visitation rights to allow a grandparent to petition a court for visitation rights with a grandchild regardless of the marital status of the child's parents, unless a paternal grandparent is seeking visitation with a child born out of wedlock and the child's father has not established paternity. Expands the factors that the court may consider when determining whether the grandparent visitation is in the best interests of the child. Provides for appointment by the court of a guardian ad litem or court appointed special advocate for a child who is the subject of a proceeding for grandparent visitation.

**Effective:** July 1, 1999.

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January 26, 1999, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1690

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 31-9-2-28 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28. "Court appointed  
3 special advocate", for purposes of IC 31-15-6, IC 31-16-3, **IC 31-17-5**,  
4 IC 31-17-6, IC 31-19-16, IC 31-19-16.5, and the juvenile law, means  
5 a community volunteer who:  
6 (1) has completed a training program approved by the court;  
7 (2) has been appointed by a court to represent and protect the best  
8 interests of a child; and  
9 (3) may research, examine, advocate, facilitate, and monitor a  
10 child's situation.  
11 SECTION 2. IC 31-9-2-48.5 IS ADDED TO THE INDIANA CODE  
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 1999]: **Sec. 48.5. "Grandparent", for purposes of IC 31-17-5,**  
14 **includes:**  
15 (1) **the adoptive parent of the child's parent;**  
16 (2) **the parent of the child's adoptive parent; and**  
17 (3) **the parent of the child's parent.**



SECTION 3. IC 31-9-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 50. "Guardian ad litem", for purposes of IC 31-15-6, IC 31-16-3, **IC 31-17-5**, IC 31-19-16, IC 31-19-16.5, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-2.1-7-3.1 who is appointed by a court to:

- (1) represent and protect the best interests of a child; and
- (2) provide the child with services requested by the court, including:
  - (A) researching;
  - (B) examining;
  - (C) advocating;
  - (D) facilitating; and
  - (E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 4. IC 31-17-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) **Except as provided in subsection (b), a child's grandparent may seek petition a court for** visitation rights ~~if:~~

- ~~(1) the child's parent is deceased;~~
- ~~(2) the marriage of the child's parents has been dissolved in Indiana; or~~
- ~~(3) subject to subsection (b), the child was born out of wedlock with the child.~~

(b) A court may not grant visitation rights to a paternal grandparent of a child who is born out of wedlock ~~under subsection (a)(3)~~ if the child's father has not established paternity in relation to the child.

SECTION 5. IC 31-17-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The court may grant visitation rights if the court determines that visitation rights are in the best interests of the child.

(b) In determining the best interests of the child under this section, the court may consider **the following:**

- (1) Whether a grandparent has had or has attempted to have meaningful contact with the child.
- (2) **The degree of difficulty in implementing the grandparent's visitation with the child.**
- (3) **The priority of the rights of the parents and child.**
- (4) **The weight of any other person's visitation rights with the**



child.

(c) The court may interview the child in chambers to ascertain the child's wishes. The court may permit counsel to be present at the interview. If counsel is present, a record of the interview may be made for purposes of appeal.

SECTION 6. IC 31-17-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.5. (a) A court may appoint a guardian ad litem or a court appointed special advocate, or both, for a child in a proceeding under this chapter.

(b) IC 31-17-6 applies to a guardian ad litem or court appointed special advocate appointed under this section.

SECTION 7. IC 31-17-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A proceeding for grandparent's visitation must be commenced by the filing of a petition entitled, "In Re the visitation of \_\_\_\_\_". The petition must:

- (1) be filed by a grandparent entitled to receive visitation rights under this chapter;
- (2) be verified; and
- (3) set forth the following:

(A) The names and relationship of:

- (i) the petitioning grandparent or grandparents;
- (ii) each child with whom visitation is sought; and
- (iii) the custodial parent or guardian of each child.

(B) The present address of each person named in clause (A).

(C) The date of birth of each child with whom visitation is sought.

~~(D) The status under section 1 of this chapter upon which the grandparent seeks visitation.~~

~~(E)~~ (D) The relief sought.

SECTION 8. IC 31-17-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. A grandparent seeking visitation rights shall file a petition requesting reasonable visitation rights:

- (1) in a circuit or superior court of the county in which the child resides; ~~in a case described in section 1(a)(1), 1(a)(3), or 10 of this chapter;~~ or
- (2) in the court having jurisdiction over the dissolution of the parents' marriage, ~~in a case described in section 1(a)(2) of this chapter; if the marriage of the child's parents was dissolved in Indiana.~~

SECTION 9. IC 31-17-5-10 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. If the marriage of  
2 the child's parents has been dissolved in another state, the child's  
3 ~~maternal or paternal~~ grandparent may seek visitation rights if:

- 4 (1) the custody decree entered in the action for dissolution of  
5 marriage does not bind the grandparent under IC 31-17-3-12; and  
6 (2) an Indiana court would have jurisdiction under IC 31-17-3-3  
7 or IC 31-17-3-14 to grant visitation rights to the grandparent in a  
8 modification decree.

9 SECTION 10. IC 31-17-6-1 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. A court in a  
11 proceeding under IC 31-17-2, IC 31-17-4, **IC 31-17-5**, this chapter, or  
12 IC 31-17-7 may appoint a guardian ad litem, a court appointed special  
13 advocate, or both, for a child at any time.

14 SECTION 11. IC 31-9-2-77 IS REPEALED [EFFECTIVE JULY 1,  
15 1999].

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